

A. G. Contract No. KR94 0059TRN
ECS File: JPA 94-04
Project: G1050 40C
Section: Widen Charleston Road ESP

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF SIERRA VISTA

THIS AGREEMENT is entered into 11 February, 1994,
pursuant to Arizona Revised Statutes, Sections 11-951 through
11-954, as amended, between the STATE OF ARIZONA, acting by and
through its DEPARTMENT OF TRANSPORTATION (the "State") and the
CITY OF SIERRA VISTA, acting by and through its MAYOR and CITY
COUNCIL (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes
Section 28-108 to enter into this agreement and has by
resolution, a copy of which is attached hereto and made a part
hereof, resolved to enter into this agreement and has delegated
to the undersigned the authority to execute this agreement on
behalf of the State.

2. The City is empowered by Arizona Revised Statutes
Section 41-1513 and 28-1895 et seq to enter into this agreement
and has by resolution, a copy of which is attached hereto and
made a part hereof, resolved to enter into this agreement and
has authorized the undersigned to execute this agreement on
behalf of the City.

3. The City has requested Economic Strength Project (ESP)
funds in the amount of \$188,124.00; the Arizona Department of
Commerce and the Economic Development Commission have
recommended the approval of such funds for the City, and the
Transportation Board has approved the funding, for the
construction of widening Charleston Road to provide improved
access to a retail center, and aid in the retention and
development of local business, hereinafter referred to as the
Project.

THEREFORE, in consideration of the mutual agreements expressed
herein, it is agreed as follows:

NO. <u>18400</u>
FILED WITH SECRETARY OF STATE
Date Filed <u>02/11/94</u>
<u>Richard H. Hansen</u> Secretary of State
By <u>Vicky D. Greenwald</u>

II. SCOPE

1. The City will:

a. Insure the additional commitment of fifty and three tenths percent (50.3%) of the total estimated Project cost, or \$190,781.00, whichever is more, from the City or other sources (not including ESP funds) to the Project and related improvements. Upon completion, accept the Project on behalf of the City and provide maintenance.

b. Invoice the State for ESP funds (Arizona Department of Commerce, ATTN: Assistant Director, 3800 N. Central Avenue, Suite 1500, Phoenix, AZ 85004), in the amount of \$188,124.00.

c. Provide the State a copy of the executed Project contract(s). Substantially draw down and expend the ESP funds within six (6) months after the effective date of this agreement. Provide the State written reports of all ESP fund expenditures, supported by invoices, receipts or other suitable documentation, and a final accounting report no later than thirty (30) days after ESP funds are fully expended. Reimburse the State any funds received under this agreement which are expended and subsequently disallowed by the State.

d. Provide the State (Arizona Department of Commerce, ATTN: Assistant Director, 3800 N. Central Avenue, Suite 1500, Phoenix, AZ 85004) with quarterly Project status reports, and one year after completion of the Project, a written Economic Impact Report outlining the impact of the Project, to include jobs created, jobs retained and related data.

2. The State will:

a. Within thirty (30) days after receipt and approval of the contract(s) and invoice, advance the City ESP funds in the amount of \$188,124.00.

III. MISCELLANEOUS PROVISIONS

1. The only interest of the Department of Transportation in the Project is to convey economic strength pass through funds for the use and benefit of the City by reason of state law under which funds for the Project are authorized to be expended.

2. The City agrees to indemnify and save harmless the State, or any of its departments, agencies, officers or employees, from and against all loss, expense, damage or claim of any nature whatsoever which is caused by any activity, condition or event arising out of the performance or non-performance by the State of any of the provisions of this agreement.

3. The total amount of ESP funds expended under this agreement shall not exceed forty nine and seven tenths percent (49.7%) of the total Project cost. Should the Project not be completed, be partially completed, or be completed at a lower cost than the advanced amount, or for any other reason should any of these ESP funds not be expended, a proportionate amount of the funds provided under this agreement shall be reimbursed to the State.

4. This agreement shall remain in force and effect until completion of said Project, reimbursement and subsequent reports; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, may be cancelled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party.

5. This agreement shall become effective upon filing with the Secretary of State.

6. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

7. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

8. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth in Arizona Revised Statutes Section 12-1518.

9. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Room 222E Mail Drop 616E
Phoenix, AZ 85007

City of Sierra Vista
City Manager
2400 East Tacoma Street
Sierra Vista, AZ 85635

10. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF SIERRA VISTA

STATE OF ARIZONA

Department of Transportation

By Richard F. Archer
RICHARD F. ARCHER
Mayor

By Harry A. Reed
HARRY A. REED
Director, Transportation
Planning Division

ATTEST:

By Sandra L. Kenny
SANDRA L. KENNY
City Clerk

RESOLUTION

BE IT RESOLVED on this 5th day of January 1994, that I, the undersigned LARRY S. BONINE, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Transportation Planning Division, to enter into an agreement with the City of Sierra Vista for the purpose of defining responsibilities for the construction of widening of Charleston Road (ESP).

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted for approval and execution by the Director, Transportation Planning Division.



LARRY S. BONINE
Director

RESOLUTION 3144

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; REAFFIRMING SETTLED POLICY; AUTHORIZING THE MAYOR TO SIGN AN INTER-GOVERNMENTAL AGREEMENT (IGA) WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION (ADOT) IN ORDER TO SECURE \$188,124 IN ECONOMIC STRENGTH PROJECT GRANT FUNDING FOR USE ON THE CHARLESTON ROAD WIDENING PROJECT; AND AUTHORIZING AND DIRECTING THE CITY MANAGER, CITY CLERK, CITY ATTORNEY OR THEIR DULY AUTHORIZED OFFICERS AND AGENTS TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, Max Club Division of Super Value, Inc. decided to construct a warehouse retail facility in the Plaza Vista Mall; and

WHEREAS, that project has necessitated the widening of Charleston Road in order to improve accessibility and safety for the customers who patronize the Plaza Vista Mall; and

WHEREAS, the City Council approved Resolution 3053, placing the Charleston Road Widening Project on the City's FY 93/94 Capital Improvements Plan (CIP); and

WHEREAS, the City Council approved the Charleston Road Widening Project as part of the FY 93/94 budget; and

WHEREAS, the City successfully applied for \$188,124 in Economic Strength Project grant funding with the Arizona Department of Commerce; and

WHEREAS, the Arizona Department of Commerce recommended the City's Economic Strength Project grant application to the Arizona Department of Transportation for funding.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, AS FOLLOWS:

SECTION 1

That the policy of cooperating with other government agencies, most recently affirmed by Resolution 3122 be, and hereby is, reaffirmed.


SECTION 2

That an Intergovernmental Agreement between the City of Sierra Vista and the Arizona Department of Transportation to secure grant funding in the sum of \$188,124 for the purpose of widening Charleston Road be, and hereby is, approved.

SECTION 3

The City Manager, City Clerk, City Attorney, or their duly authorized officers and agents are hereby authorized and directed to take all steps necessary to carry out the purposes and intent of this Resolution.

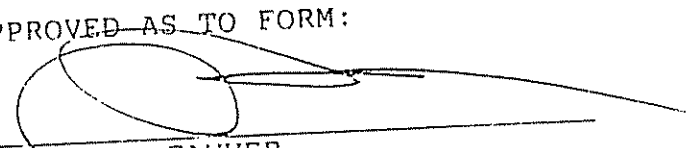
PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, THIS 27TH DAY OF JANUARY, 1994.


RICHARD F. ARCHER
Mayor

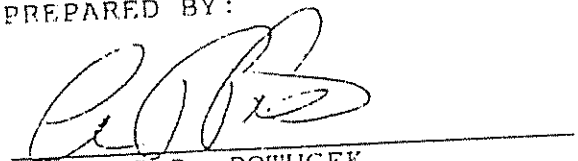
ATTEST:


SANDRA L. KENNY
City Clerk

APPROVED AS TO FORM:


STUART L. FAUVER
City Attorney

PREPARED BY:


CHARLES P. POTUCEK
Assistant to the City Manager

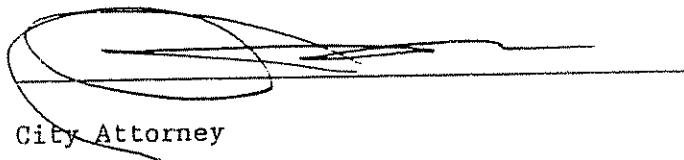
RESOLUTION 3144
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JPA 94-04

APPROVAL OF THE SIERRA VISTA CITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION and the CITY OF SIERRA VISTA and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

DAIED this 27th day of January, 1994.


City Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

GRANT WOODS
ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2926

MAIN PHONE : 542-5025
TELECOPIER : 542-4085


INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A. G. Contract No. KR94-0059-TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. §11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 7th day of February, 1994.

GRANT WOODS
Attorney General


JAMES R. REDPATH
Assistant Attorney General
Transportation Section

JRR:lsc
8365G